

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL
DIVISION OF AIR AND WASTE MANAGEMENT
SITE INVESTIGATION & RESTORATION BRANCH

MEMORANDUM

TO: James D. Werner, Director, DAWM

THRU: Kathy Stiller-Banning, Program Manager II, SIRB
Paul W. Will, Program Manager I, SIRB
Qazi Salahuddin, Program Manager I, SIRB
Tim Ratsep, Program Manager I, SIRB

FROM: James M. Poling, Brownfields Administrator

SUBJECT: Amendment to Brownfields Grants Funding Policy

DATE: September 12, 2008

This memorandum seeks to amend the *Hazardous Substance Cleanup Act Policy on Brownfields Grants* signed by Secretary Hughes on November 17, 2006. Specifically, to amend section IV(1) and (2) – Eligibility for Brownfield Grants. The intent is to limit Brownfields Grant funding to otherwise liable parties who are able to certify that they/it did not cause or contribute to any release(s) of hazardous substances at the site prior to the date of the enactment of the Brownfields Development Program. Providing funding to parties prior to this date has raised concerns about the equity of funding potentially responsible parties.

To this end, DNREC staff in consultation with the Brownfields Advisory Committee, have proposed that the following language be added to sections IV (1) and (2) (see bolded provisions):

IV. ELIGIBILITY FOR BROWNFIELD GRANTS

(1) Owners or prospective purchasers can apply for State brownfield grant funding for *Public* or *Non-Profit entities* under the following conditions:

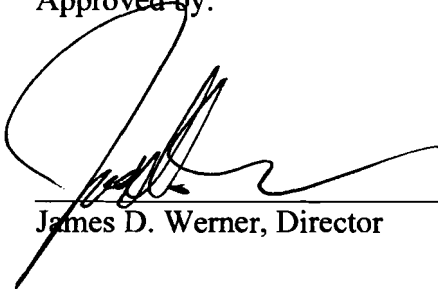
1. The property must be certified as a Brownfield pursuant to Section 14.5 of *The Regulations Governing Hazardous Substance Cleanup*. Certification may be applied for in conjunction with the application for funding;
2. The applicant must be a *non-profit* or *public entity*;
3. The applicant must certify and demonstrate to DNREC's satisfaction that they/it did not cause or contribute to the actual release(s) of hazardous substance(s);
4. The applicant is in full compliance with all other environmental requirements in Delaware;
5. The applicant must not be a *chronic violator*;

6. The applicant must not be subject to any current enforcement action from any State or Federal environmental agency unless such enforcement action is, in the opinion of the Secretary, adequately resolved with the applicable agency; **and**
7. **In the case of an applicant that is an owner or operator of the property, the applicant did not own or operate any facility on the property prior to July 1, 2004. Provided, however, that an exception be granted to Public entities that acquired the property by operation of law.**

(2) Owners or prospective purchasers can apply for State Brownfields Grant funding for private entities under the following conditions:

1. The property must be certified as a Brownfield pursuant to Section 14.5 of *The Regulations Governing Hazardous Substance Cleanup*. Certification may be applied for in conjunction with the application for funding;
2. The applicant must certify and affirmatively demonstrate that they/it did not cause or contribute to the actual release(s) of hazardous substance(s);
3. The applicant is in full compliance with all other environmental requirements in Delaware;
4. The applicant must not be a *chronic violator*;
5. The applicant must not be subject to any current enforcement action from any State or Federal environmental agency unless such enforcement action is, in the opinion of the Secretary, adequately resolved with the applicable agency; **and**
6. **In the case of an applicant that is an owner or operator of the property, the applicant did not own or operate any facility on the property prior to July 1, 2004.**

Approved by:



James D. Werner, Director

12 Sept 2008
Date

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